

II. JURISDICTION AND VENUE

2. This Court, in accordance with 28 U.S.C. 1331, has jurisdiction over Plaintiff's claims because they arise under a federal law - the FLSA. There is supplemental jurisdiction over Plaintiff's state-law claims herein because they arise out of the same common nucleus of operative facts as Plaintiff's federal claim(s) set forth in this lawsuit.

3. This Court may properly maintain personal jurisdiction over Defendants because Defendants' contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendants to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

III. PARTIES

5. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

6. Plaintiff is an adult individual, with an address as set forth in the caption.

7. Defendant Bond Metal Surplus, Inc., d/b/a Krevitz Metals (hereinafter "Defendant K-Metals" where referred to individually) is a 5th-generation, family-owned industrial waste management and scrap solutions business servicing businesses in several states. The entity is incorporated in Pennsylvania.

8. Defendant Steven Krevitz ("Defendant SK" where referred to individually) is the owner and Chief Executive Officer of Defendant K-Metals.

9. Defendant Jordan Krevitz (“Defendant JK” where referred to individual) is the son of Defendant SK, an executive of Defendant K-Metals, and assists in overseeing operations of Defendant K-Metals.

10. At all times relevant herein, Defendants acted by and through their agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendants.

IV. FACTUAL BACKGROUND

11. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

12. Plaintiff has in total worked for Defendants for approximately three (3) years, and Plaintiff has been based in Quakertown, Pennsylvania for Defendants at the above-captioned location.

13. Defendants own and operate numerous businesses and properties, including but not limited to K-Metals, real estate, and an apartment complex. They are substantially intermingled. Plaintiff does not know the other names of such legal entities, but places Defendants on notice herein that he intends to name such other business or corporate entities following discovery during this lawsuit.

14. Plaintiff solely worked for Defendants as a laborer. In this capacity, Plaintiff basically performed continual maintenance, cleaning, machine operation, and did basically anything asked of him.

15. While the bulk and majority of Plaintiff’s work was performed within Defendant K-Metals, Plaintiff was also continually directed by Defendants JK and SK to perform labor, maintenance, or general repairs on other properties (presumably under different corporate

names). In fact, Plaintiff resides in once such apartment complex owned and operated by Defendants in which he was also directed to continually perform labor.

16. Plaintiff has always been paid as an hourly employee, and his pay has fluctuated from week to week during his employment. Upon hire, Plaintiff was paid \$12.00 per hour. He was thereafter gradually increased until the current timeframe in which he had been paid \$20.00 per hour. Plaintiff was paid hourly by the same Defendants regardless of where or on what business he was directed to perform work.

17. Plaintiff consistently worked approximately 60 – 80 hours per week for Defendants, often 7 days per week. Prior to the spring of 2020, Plaintiff: (1) was not paid for all overtime hours worked; and (2) he was only paid in cash for *some* of the overtime he worked.

18. Defendants basically exploit employees such as Plaintiff, paying them only part of their wages or in cash. Defendants knowingly flout and violate state wage laws by: (a) failing to properly keep / maintain time records; (b) paying in cash for part of employee wages; (c) knowingly failing to make proper withholdings or contributions to employees; and (d) intentionally only paying straight-time for overtime (instead of time and one half) if and when Defendants even choose to pay overtime compensation.

19. Plaintiff would express concerns to Defendants JK and SK about his wages and overtime being short or too minimal on numerous occasions. Instead of paying Plaintiff (or other employees) legally, Defendants would tell Plaintiff he would not be charged for rent or they would pay for some of his fuel.

20. Plaintiff needed earned wages in each workweek, not periodic employee benefit enhancements used to limit him from continuing to express concerns. Additionally, one such

employee benefits were given, they were required to become part of the overtime calculation (only enhancing overtime owed).

21. In the late spring / summer of 2020, Defendants began converting employees such as Plaintiff to payroll *even for* overtime compensation payments. This was likely to justify, show accountability for, and get *loan forgiveness* for a 6-figure loan it took from Fidelity Deposit and Discount Bank. A condition of full loan forgiveness by and through the federal program(s) is demonstration of expenses through payroll.

22. For Defendants' own selfish purposes, they elected in the late spring / summer 2020 timeframe to actually partially follow wage and overtime laws by documenting some overtime compensation.

23. Defendants however exhibited no care for any obligation to comply with state or federal overtime laws though even when choosing to identify worked overtime within documented payroll. Solely by way of example, Plaintiff was paid bi-weekly. He was issued a paystub for the pay period of "6/07/20 – 6/24/20." During this pay period, Plaintiff was paid as follows:

Hours worked	Rate	Total Gross Pay for Pay Period	This Pay Period
104	\$20.00 per hour	\$2,080.00	\$2,080.00

24. In the 2-week pay period of June 7th to June 24th of 2020, Defendant **memorialized** that Plaintiff worked 24 hours of overtime. And Defendants unlawfully **memorialized** within their own payroll that Plaintiff was only paid *straight time* for each hour, not time and one half.

25. During the aforesaid example payroll period, Plaintiff was not paid \$240.00 in overtime compensation had he been paid lawfully. Defendants pervasively committed **2 types** of

overtime violations pre- and post-documentation within payroll: (1) Plaintiff was typically never paid for all overtime worked; and (2) Plaintiff was only ever paid for “straight time” when he worked such overtime.

26. Leading up to the pandemic of COVID-19, Plaintiff worked extremely excessive overtime, but he still continued to work substantial overtime during the COVID-19 pandemic notwithstanding a state-wide overall reduction in business operations.

27. Even assuming for the sake of argument that Plaintiff was paid for every hour of overtime during his tenure (a false premise to begin with), he would still be owed in excess of \$50,000.00 in unpaid overtime compensation through today.

28. Additionally, liquidated damages should “automatically” be awarded **doubling** Plaintiff’s unpaid overtime compensation.¹ In sum, Plaintiff is owed well in excess of \$100,00.00, exclusive of costs, attorney’s fees and interest.

¹ See e.g. *Solis v. Min Fang Yang*, 345 Fed. Appx. 35 (6th Cir. 2009)(Affirming award of liquidated damages explaining “under the Act, liquidated damages are compensation, not a penalty or punishment, and no special showing is necessary for the awarding of such damages. Rather, they are considered the norm and have even been referred to by this court as mandatory.”); *Gayle v. Harry's Nurses Registry, Inc.*, 594 Fed. Appx. 714, 718 (2d Cir. 2014)(Affirming award of liquidated damages explaining there is an automatic “presumption” of liquidated damages and “double damages are the **norm**, single damages the exception,” as the burden to avoid liquidated damages is a “difficult burden.”); *Haro v. City of Los Angeles*, 745 F.3d 1249 (9th Cir. 2014)(Affirming award of liquidated damages explaining they are the “norm” and “mandatory” unless the employer can establish the very “difficult burden” of subjective and objective attempts at FLSA compliance); *Chao v. Barbeque Ventures, LLC*, 547 F.3d 938, 942 (8th Cir. 2008)(Affirming award of liquidated damages explaining that the employer mistakenly argues its non-compliance was not willful, misunderstanding the high burden to show affirmative steps of attempted compliance and research of the FLSA and separately that its diligence and belief in non-payment of overtime was also objectively reasonable.); *Chao v. Hotel Oasis, Inc.*, 493 F.3d 26 (1st Cir. 2007)(Affirming award of liquidated damages explaining that they will always be considered the “norm” in FLSA cases); *Lockwood v. Prince George's County*, 2000 U.S. App. LEXIS 15302 (4th Cir. 2000)(Affirming award of liquidated damages explaining they are the “norm” and that an employer may not take an ostrich-like approach and refuse to research its obligations under the FLSA and to objectively explain why it failed to comply with the FLSA); *Uphoff v. Elegant Bath, Ltd.*, 176 F.3d 399 (7th Cir. 1999)(Reversing the district court for not awarding liquidated damages, as doubling unpaid overtime is the rule, not an exception); *Nero v. Industrial Molding Corp.*, 167 F.3d 921 (5th Cir. 1999)(Affirming award of liquidated damages, as there is a presumption of entitlement to liquidated damages which are the norm).

Count I
Violations of the Fair Labor Standards Act ("FLSA")
(Failure to Pay Overtime Compensation)
- Against All Defendants -

29. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

30. Defendants did not pay Plaintiff at a rate of time and one half for hours he worked beyond 40 hours per week.

31. Plaintiff therefore seeks all remedies permitted under the FLSA for unpaid overtime compensation, as well as penalties and interest.

Count II
Violations of the Pennsylvania Minimum Wage Act ("PMWA")
(Failure to Pay Overtime Compensation)
- Against All Defendants -

32. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

33. Defendants' failure to pay overtime in the aforesaid manner(s) also constitutes a violation of the PMWA.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendants are to promulgate and adhere to a policy prohibiting overtime violations;

B. Defendants are to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' wrongful actions, including but not limited to all unpaid wages or overtime compensation;

C. Plaintiff is to be awarded liquidated damages as permitted by applicable law in an amount believed by the Court or trier of fact to be appropriate to punish Defendants for their willful, deliberate, malicious, and outrageous conduct and to deter Defendants or other employers from engaging in such misconduct in the future;


D. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate;

E. Plaintiff is to be awarded the costs and expenses of this action and a reasonable attorney's fees if permitted by applicable law; and

F. Plaintiff is permitted to have a trial by jury.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

A handwritten signature in dark ink, appearing to read 'Ari R. Karpf', is written over a horizontal line.

Ari R. Karpf, Esquire
3331 Street Road
Building 2, Suite 128
Bensalem, PA 19020
(215) 639-0801

Dated: September 8, 2020

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Thomas Holland

CIVIL ACTION

v.


Steven Krevitz, et al.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>9/9/2020.</u> Date	 Attorney-at-law	<u>Plaintiff</u> Attorney for
<u>(215) 639-0801</u> Telephone	<u>(215) 639-4970</u> FAX Number	<u>akarpf@karpf-law.com</u> E-Mail Address

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 618 Delaware Avenue, Fountain Hill, PA 18015

Address of Defendant: 2385 John Fries Hwy, Quakertown, PA 18951

Place of Accident, Incident or Transaction: Defendants place of business

RELATED CASE, IF ANY:

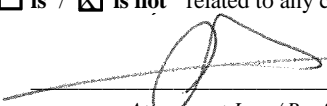
Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/9/2020


Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2. FELA |
| <input type="checkbox"/> | 3. Jones Act-Personal Injury |
| <input type="checkbox"/> | 4. Antitrust |
| <input type="checkbox"/> | 5. Patent |
| <input type="checkbox"/> | 6. Labor-Management Relations |
| <input checked="" type="checkbox"/> | 7. Civil Rights |
| <input type="checkbox"/> | 8. Habeas Corpus |
| <input type="checkbox"/> | 9. Securities Act(s) Cases |
| <input type="checkbox"/> | 10. Social Security Review Cases |
| <input type="checkbox"/> | 11. All other Federal Question Cases |

(Please specify): _____

B. Diversity Jurisdiction Cases:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2. Airplane Personal Injury |
| <input type="checkbox"/> | 3. Assault, Defamation |
| <input type="checkbox"/> | 4. Marine Personal Injury |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): _____ |
| <input type="checkbox"/> | 7. Products Liability |
| <input type="checkbox"/> | 8. Products Liability – Asbestos |
| <input type="checkbox"/> | 9. All other Diversity Cases |

(Please specify): _____

ARBITRATION CERTIFICATION

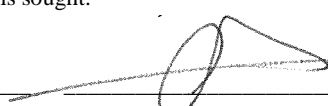
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Ari R. Karpf, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 9/9/2020


Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

